

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

MAR 16 2015

JAMES W. MCCORMACK, CLERK
By:  DEP. CLERK

ROYCE DEVORAK

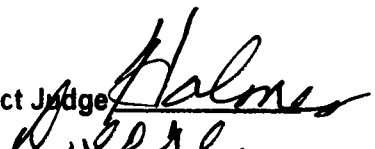
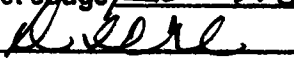
Plaintiff,

v.

CIVIL ACTION NO. 4:15cv154-JLH

HYUNDAI CAPITAL AMERICA,

Defendant.

This case assigned to District Judge 
and to Magistrate Judge 

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

ROYCE DEVORAK (Plaintiff), through attorneys, KROHN & MOSS, LTD., alleges the following against HYUNDAI CAPITAL AMERICA (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint alleges that Defendant negligently, knowingly and/or willfully violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (TCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 28 U.S.C. 1331.
3. Because Defendant conducts business in the State of Arkansas, personal jurisdiction is established.
4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

5. Plaintiff is a natural person who resides in Lonoke, Lonoke County, Arkansas.
6. Defendant is a business entity with its principal place of business in Irvine, California.
7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. Defendant places collection calls to Plaintiff seeking and attempting to collect on an alleged debt.
9. Defendant places collection calls to Plaintiff's cellular telephone at phone number (501) 266-01XX
10. Defendant places collection calls to Plaintiff from phone numbers including, but not limited to, 800-523-7020.
11. Per its prior business practices, Defendant's calls were placed with an automated dialing system ("auto-dialer").
12. On or around August 2, 2014, Plaintiff spoke to Defendant's representative and requested that Defendant cease calling her cellular telephone.
13. Plaintiff revoked any consent, express, implied, or otherwise, to receive automated collection calls from Defendant.
14. Despite Plaintiff's request to cease, Defendant continued to place at least two hundred and eighty-one (281) automated collection calls to Plaintiff.

COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

15. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

16. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

17. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

18. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

19. All court costs, witness fees and other fees incurred; and

20. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

By: _____

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VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF ARKANSAS

Plaintiff, ROYCE DEVORAK , states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, ROYCE DEVORAK, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

1-27-2015
Date

Royce Devorak
ROYCE DEVORAK